

**IN THE CLAIMS:**

Claims 1-10 (canceled)

11. (original) A surgical apparatus for delivering fluid to treat a lesion comprising:  
a housing;  
a hollow elongated member extending from the housing;  
first and second tines positioned in the elongated member, each of the tines having a lumen and at least one opening communicating with the lumen for delivering fluid to the lesion, the first and second tines movable between a retracted position, a first deployed position and a second deployed position; and  
an actuator operatively associated with the tines, the actuator movable in a first direction to move the first and second tines from the retracted position to the first deployed position and movable in a second direction to move the first and second tines from the retracted position to the second deployed position, the second direction being different from the first direction, and in the second deployed position the first and second tines are advanced further from the elongated member than in the first deployed position.
12. (original) The apparatus of claim 11, wherein the actuator is rotatable in the first direction for movement of the first and second tines to the first deployed position and rotatable in the second direction for movement of the first and second tines to the second deployed position.
13. (original) The apparatus of claim 12, wherein the actuator is axially slidable to move the first and second tines to the first and second deployed positions.
14. (original) The apparatus of claim 13, wherein the housing includes a short track and a long track, a portion of the actuator slidable in the short track to move the first and second tines to the first deployed position and slidable in the long track to move the first and second tines to the second deployed position.
15. (original) The apparatus of claim 11, wherein the first and second tines in the deployed position extend at an angle to a longitudinal axis of the elongated member.
16. (original) The apparatus of claim 15, further comprising a third tine having a lumen and an opening in fluid communication with the lumen for delivery of fluid to the lesion, the third tine movable between a retracted position, a first deployed position, and a second deployed position, wherein in the first and second deployed positions the third tine is substantially aligned with the longitudinal axis of the elongated member.

Claims 17-18 (canceled)

19. (currently amended) An apparatus for delivering fluid to treat tumors comprising:

a housing;

an elongated member extending from the housing;

a plurality of tines positioned in the elongated member, each of the tines having a lumen and at least one opening communicating with the lumen for delivering fluid to the lesion; and

an actuator operatively associated with the plurality of tines, the actuator actuatable to a first position to move the plurality of tines from a retracted position substantially within the elongated member to a first deployed position extending distally of the elongated member and actuatable to a second position to move the plurality of tines from the retracted position to a second deployed position extending distally of the elongated member, the actuator movable to the second position without ~~movement to~~ passing through the first position.

Claims 20-27 (canceled)

28. (previously amended) A surgical apparatus for delivering fluid to treat a lesion comprising:

a housing;

a hollow elongated member extending from the housing;

a plurality of tines positioned in the elongated member, each of the tines having a lumen and at least one opening communicating with the lumen for delivering fluid to the lesion;

an actuator operatively associated with the tines, the actuator actuatable to a first position to move the plurality of tines from a retracted position substantially within the elongated member to a first deployed position extending from the elongated member and actuatable to a second position to move the plurality of tines from the first deployed position to a second deployed position extending further from the elongated member, and a first retention member retaining the tines in the first deployed position to deliver fluid to a first treatment zone and retaining the tines in a second deployed position to deliver fluid to a second treatment zone larger than the first treatment zone, the actuator being slidable in an axial direction to deploy the tines and the first retention member being disposed internal of the housing and interacting with the slidable actuator to retain the tines in the first and second deployed positions; and

a second retention member disposed internal of the housing and radially spaced from the first retention member, wherein the second retention member interacts with the slidable actuator to retain the tines in the first and second deployed positions.

29. (previously amended) A surgical apparatus for delivering fluid to treat a lesion comprising:

a housing;

a hollow elongated member extending from the housing;

a plurality of tines positioned in the elongated member, each of the tines having a lumen and at least one opening communicating with the lumen for delivering fluid to the lesion; and

an actuator operatively associated with the tines, the actuator actuatable to a first position to move the plurality of tines from a retracted position substantially within the elongated member to a first deployed position extending from the elongated member and actuatable to a second position to move the plurality of tines from the first deployed position to a second deployed position extending further from the elongated member, and a retention member retaining the tines in the first deployed position to deliver fluid to a first treatment zone and retaining the tines in a second deployed position to deliver fluid to a second treatment zone larger than the first treatment zone, the actuator being slidable in an axial direction to deploy the tines and the retention member being disposed internal of the housing and interacting with the slidable actuator to retain the tines in the first and second deployed positions, wherein the actuator includes a flexible member formed by a cutout in a body of the actuator, the flexible member being engagable with the retention member.

30. (previously amended) An apparatus for delivering fluid for tumor ablation comprising:

a housing;

an elongated tissue penetrating member extending from the housing and non-removably connected thereto,

first and second tines positioned in the elongated member, each of the tines having a penetrating tip, a lumen and at least one opening in a sidewall spaced from the tip communicating with the lumen for delivering fluid to the lesion to a first treatment zone and a second treatment zone, the first and second tines movable between a retracted position, a first deployed position and a second deployed position and being retained by a retention member in the first and second deployed positions for delivering fluid to the first and second treatment zones, the first tine being substantially aligned with a longitudinal axis of the elongated member in the retracted position and in the first deployed position, and the second tine being substantially aligned with a longitudinal axis of the elongated member in the retracted position and at an angle to the longitudinal axis of the elongated member in the first deployed position,

an actuator operatively associated with the tines, the actuator movable to move the first and second tines from the retracted position to the first deployed position and movable to move the first and second tines from the retracted position to the second deployed position, a first retention member interacting with the actuator to retain the tines in the first deployed position and in the second deployed position; and

a second retention member disposed internal of the housing and radially spaced from the first retention member, wherein the second retention member interacts with the slidable actuator to retain the tines in the first and second deployed positions.